

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2076

Introduced by Assembly Member Ma

February 23, 2012

An act to amend Sections 68085.1, 68086, 68086.1, and 69953.5 of the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 2076, as amended, Ma. Official court reporter fee.

Existing law requires the charge of an official court reporter fee, in addition to any other fee required in civil actions or cases, for each proceeding lasting more than one hour, in an amount equal to the actual cost of providing that service per ½ day of services to the parties, on a pro rata basis, for the services of an official court reporter on the first and each succeeding judicial day those services are provided, as specified. Fees collected pursuant to this provision may be used only to pay for services of an official court reporter in civil proceedings. Existing law further requires that, whenever a daily transcript is ordered in a civil case requiring the services of more than one reporter, the party requesting the transcript pay a fee equal to the per diem rate for pro tempore reporters in addition to any other required fee.

This bill would additionally require an official court reporter fee to be charged for each proceeding lasting less than an hour, and would authorize the court in which an official court reporter fee was collected to retain that fee. The bill would also authorize the court collecting a

per diem fee for a daily transcript to retain that fee to offset the cost of the additional court reporter.

Existing law establishes filing fees in specified civil proceedings. Existing law further establishes the Trial Court Trust Fund and requires that \$30 of the amount distributed to the Trial Court Trust Fund from specified filing fees be used for the services of an official court reporter in civil proceedings.

This bill, instead, would require that \$30 of specified filing fees be retained by the court in which the fee was collected and be used ~~for to~~ *provide the services of an official court reporter—services* in civil proceedings. *The bill would also require, in courts where official court reporting services in civil proceedings are not provided, that all fees to be retained pursuant to these provisions instead revert to the Trial Court Trust Fund for redistribution to trial courts providing official court reporting services in civil proceedings, as specified, and that these redistributed funds be used to provide the services of an official court reporter in civil proceedings.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 68085.1 of the Government Code, as
- 2 amended by Section 4 of Chapter 457 of the Statutes of 2009, is
- 3 amended to read:
- 4 68085.1. (a) This section applies to all fees and fines that are
- 5 collected on or after January 1, 2006, under all of the following:
- 6 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,
- 7 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,
- 8 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of
- 9 Section 411.21 of, and Chapter 5.5 (commencing with Section
- 10 116.110) of Title 1 of Part 1 of, the Code of Civil Procedure.
- 11 (2) Section 3112 of the Family Code.
- 12 (3) Section 31622 of the Food and Agricultural Code.
- 13 (4) Subdivision (d) of Section 6103.5, subdivision (d) of Section
- 14 68511.3, Section 68926.1, and Chapter 5.8 (commencing with
- 15 Section 70600).
- 16 (5) Section 103470 of the Health and Safety Code.
- 17 (6) Subdivisions (b) and (c) of Section 166 and Section 1214.1
- 18 of the Penal Code.

1 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate
2 Code.

3 (8) Sections 14607.6 and 16373 of the Vehicle Code.

4 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002
5 of the Family Code, and Section 1513.1 of the Probate Code, if
6 the reimbursement is for expenses incurred by the court.

7 (10) Section 3153 of the Family Code, if the amount is paid to
8 the court for the cost of counsel appointed by the court to represent
9 a child.

10 (b) On and after January 1, 2006, each superior court shall
11 deposit all fees and fines listed in subdivision (a), as soon as
12 practicable after collection and on a regular basis, into a bank
13 account established for this purpose by the Administrative Office
14 of the Courts. Upon direction of the Administrative Office of the
15 Courts, the county shall deposit civil assessments under Section
16 1214.1 of the Penal Code and any other ~~money~~ *moneys* it collects
17 under the sections listed in subdivision (a) as soon as practicable
18 after collection and on a regular basis into the bank account
19 established for this purpose and specified by the Administrative
20 Office of the Courts. The deposits shall be made as required by
21 rules adopted by, and financial policies and procedures authorized
22 by, the Judicial Council under subdivision (a) of Section 77206.
23 Within 15 days after the end of the month in which the fees and
24 fines are collected, each court, and each county that collects any
25 fines or fees under subdivision (a), shall provide the Administrative
26 Office of the Courts with a report of the fees by categories as
27 specified by the Administrative Office of the Courts. The
28 Administrative Office of the Courts and any court may agree upon
29 a time period greater than 15 days, but in no case more than 30
30 days after the end of the month in which the fees and fines are
31 collected. The fees and fines listed in subdivision (a) shall be
32 distributed as provided in this section.

33 (c) (1) Within 45 calendar days after the end of the month in
34 which the fees and fines listed in subdivision (a) are collected, the
35 Administrative Office of the Courts shall make the following
36 distributions:

37 (A) To the small claims advisory services, as described in
38 subdivision (f) of Section 116.230 of the Code of Civil Procedure.

39 (B) To dispute resolution programs, as described in subdivision
40 (b) of Section 68085.3 and subdivision (b) of Section 68085.4.

1 (C) To the county law library funds, as described in Sections
2 116.230 and 116.760 of the Code of Civil Procedure, subdivision
3 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and
4 Section 70621 of this code, and Section 14607.6 of the Vehicle
5 Code.

6 (D) To the courthouse construction funds in the Counties of
7 Riverside, San Bernardino, and San Francisco, as described in
8 Sections 70622, 70624, and 70625.

9 (E) Commencing July 1, 2011, to the Trial Court Trust Fund,
10 as described in subdivision (d) of Section 70626, to be used by the
11 Judicial Council to implement and administer the civil
12 representation pilot program under Section 68651.

13 (2) If any distribution under this subdivision is delinquent, the
14 Administrative Office of the Courts shall add a penalty to the
15 distribution as specified in subdivision (i).

16 (d) Within 45 calendar days after the end of the month in which
17 the fees and fines listed in subdivision (a) are collected, the
18 amounts remaining after the distributions in subdivision (c) shall
19 be transmitted to the State Treasury for deposit in the Trial Court
20 Trust Fund and other funds as required by law. This remittance
21 shall be accompanied by a remittance advice identifying the
22 collection month and the appropriate account in the Trial Court
23 Trust Fund or other fund to which it is to be deposited. Upon the
24 receipt of any delinquent payment required under this subdivision,
25 the Controller shall calculate a penalty as provided under
26 subdivision (i).

27 (e) From the ~~money~~ *moneys* transmitted to the State Treasury
28 under subdivision (d), the Controller shall make deposits as
29 follows:

30 (1) Into the State Court Facilities Construction Fund, the Judges'
31 Retirement Fund, and the Equal Access Fund, as described in
32 subdivision (c) of Section 68085.3 and subdivision (c) of Section
33 68085.4.

34 (2) Into the Health Statistics Special Fund, as described in
35 subdivision (b) of Section 70670 of this code and Section 103730
36 of the Health and Safety Code.

37 (3) Into the Family Law Trust Fund, as described in Section
38 70674.

39 (4) Into the Immediate and Critical Needs Account of the State
40 Court Facilities Construction Fund, established in Section 70371.5,

1 as described in Sections 68085.3, 68085.4, and 70657.5, and
2 subdivision (e) of Section 70617.

3 (5) The remainder of the ~~money~~ moneys shall be deposited into
4 the Trial Court Trust Fund.

5 (f) The amounts collected by each superior court under Section
6 116.232, subdivision (g) of Section 411.20, and subdivision (g) of
7 Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,
8 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of
9 Section 6103.5, subdivision (d) of Section 68511.3, and Sections
10 68926.1, 70627, 70631, 70640, 70661, 70678, and 71386 of this
11 code, and Sections 1513.1, 1835, 1851.5, and 2343 of the Probate
12 Code shall be added to the monthly apportionment for that court
13 under subdivision (a) of Section 68085.

14 (g) If any of the fees provided in subdivision (a) are partially
15 waived by court order or otherwise reduced, and the fee is to be
16 divided between the Trial Court Trust Fund and any other fund or
17 account, the amount of the reduction shall be deducted from the
18 amount to be distributed to each fund in the same proportion as
19 the amount of each distribution bears to the total amount of the
20 fee. If the fee is paid by installment payments, the amount
21 distributed to each fund or account from each installment shall
22 bear the same proportion to the installment payment as the full
23 distribution to that fund or account does to the full fee. If a court
24 collects a fee that was incurred before January 1, 2006, under a
25 provision that was the predecessor to one of the paragraphs
26 contained in subdivision (a), the fee may be deposited as if it were
27 collected under the paragraph of subdivision (a) that corresponds
28 to the predecessor of that paragraph and distributed in prorated
29 amounts to each fund or account to which the fee in subdivision
30 (a) must be distributed.

31 (h) Except as provided in Sections 470.5 and 6322.1 of the
32 Business and Professions Code, and Sections 70622, 70624, and
33 70625 of this code, no agency may take action to change the
34 amounts allocated to any of the funds described in subdivision (c),
35 (d), or (e).

36 (i) The amount of the penalty on any delinquent payment under
37 subdivision (c) or (d) shall be calculated by multiplying the amount
38 of the delinquent payment at a daily rate equivalent to 1 ½ percent
39 per month for the number of days the payment is delinquent. The
40 penalty shall be paid from the Trial Court Trust Fund. Penalties

1 on delinquent payments under subdivision (d) shall be calculated
2 only on the amounts to be distributed to the Trial Court Trust Fund
3 and the State Court Facilities Construction Fund, and each penalty
4 shall be distributed proportionately to the funds to which the
5 delinquent payment was to be distributed.

6 (j) If a delinquent payment under subdivision (c) or (d) results
7 from a delinquency by a superior court under subdivision (b), the
8 court shall reimburse the Trial Court Trust Fund for the amount
9 of the penalty. Notwithstanding Section 77009, any penalty on a
10 delinquent payment that a court is required to reimburse pursuant
11 to this section shall be paid from the court operations fund for that
12 court. The penalty shall be paid by the court to the Trial Court
13 Trust Fund no later than 45 days after the end of the month in
14 which the penalty was calculated. If the penalty is not paid within
15 the specified time, the Administrative Office of the Courts may
16 reduce the amount of a subsequent monthly allocation to the court
17 by the amount of the penalty on the delinquent payment.

18 (k) If a delinquent payment under subdivision (c) or (d) results
19 from a delinquency by a county in transmitting fees and fines listed
20 in subdivision (a) to the bank account established for this purpose,
21 as described in subdivision (b), the county shall reimburse the Trial
22 Court Trust Fund for the amount of the penalty. The penalty shall
23 be paid by the county to the Trial Court Trust Fund no later than
24 45 days after the end of the month in which the penalty was
25 calculated.

26 (l) This section shall become inoperative on July 1, 2017, and,
27 as of January 1, 2018, is repealed, unless a later enacted statute,
28 that becomes operative on or before January 1, 2018, deletes or
29 extends the dates on which it becomes inoperative and is repealed.

30 SEC. 2. Section 68085.1 of the Government Code, as added
31 by Section 5 of Chapter 457 of the Statutes of 2009, is amended
32 to read:

33 68085.1. (a) This section applies to all fees and fines that are
34 collected on or after January 1, 2006, under all of the following:

35 (1) Sections 177.5, 209, 403.060, 491.150, 631.3, 683.150,
36 704.750, 708.160, 724.100, 1134, 1161.2, 1218, and 1993.2 of,
37 subdivision (g) of Section 411.20 and subdivisions (c) and (g) of
38 Section 411.21 of, and Chapter 5.5 (commencing with Section
39 116.110) of Title 1 of Part 1 of, the Code of Civil Procedure.

40 (2) Section 3112 of the Family Code.

1 (3) Section 31622 of the Food and Agricultural Code.

2 (4) Subdivision (d) of Section 6103.5, subdivision (d) of Section
3 68511.3, Section 68926.1, and Chapter 5.8 (commencing with
4 Section 70600).

5 (5) Section 103470 of the Health and Safety Code.

6 (6) Subdivisions (b) and (c) of Section 166 and Section 1214.1
7 of the Penal Code.

8 (7) Sections 1835, 1851.5, 2343, 7660, and 13201 of the Probate
9 Code.

10 (8) Sections 14607.6 and 16373 of the Vehicle Code.

11 (9) Section 71386 of this code, Sections 304, 7851.5, and 9002
12 of the Family Code, and Section 1513.1 of the Probate Code, if
13 the reimbursement is for expenses incurred by the court.

14 (10) Section 3153 of the Family Code, if the amount is paid to
15 the court for the cost of counsel appointed by the court to represent
16 a child.

17 (b) On and after January 1, 2006, each superior court shall
18 deposit all fees and fines listed in subdivision (a), as soon as
19 practicable after collection and on a regular basis, into a bank
20 account established for this purpose by the Administrative Office
21 of the Courts. Upon direction of the Administrative Office of the
22 Courts, the county shall deposit civil assessments under Section
23 1214.1 of the Penal Code and any other ~~money~~ moneys it collects
24 under the sections listed in subdivision (a) as soon as practicable
25 after collection and on a regular basis into the bank account
26 established for this purpose and specified by the Administrative
27 Office of the Courts. The deposits shall be made as required by
28 rules adopted by, and financial policies and procedures authorized
29 by, the Judicial Council under subdivision (a) of Section 77206.
30 Within 15 days after the end of the month in which the fees and
31 fines are collected, each court, and each county that collects any
32 fines or fees under subdivision (a), shall provide the Administrative
33 Office of the Courts with a report of the fees by categories as
34 specified by the Administrative Office of the Courts. The
35 Administrative Office of the Courts and any court may agree upon
36 a time period greater than 15 days, but in no case more than 30
37 days after the end of the month in which the fees and fines are
38 collected. The fees and fines listed in subdivision (a) shall be
39 distributed as provided in this section.

1 (c) (1) Within 45 calendar days after the end of the month in
2 which the fees and fines listed in subdivision (a) are collected, the
3 Administrative Office of the Courts shall make the following
4 distributions:

5 (A) To the small claims advisory services, as described in
6 subdivision (f) of Section 116.230 of the Code of Civil Procedure.

7 (B) To dispute resolution programs, as described in subdivision
8 (b) of Section 68085.3 and subdivision (b) of Section 68085.4.

9 (C) To the county law library funds, as described in Sections
10 116.230 and 116.760 of the Code of Civil Procedure, subdivision
11 (b) of Section 68085.3, subdivision (b) of Section 68085.4, and
12 Section 70621 of this code, and Section 14607.6 of the Vehicle
13 Code.

14 (D) To the courthouse construction funds in the Counties of
15 Riverside, San Bernardino, and San Francisco, as described in
16 Sections 70622, 70624, and 70625.

17 (2) If any distribution under this subdivision is delinquent, the
18 Administrative Office of the Courts shall add a penalty to the
19 distribution as specified in subdivision (i).

20 (d) Within 45 calendar days after the end of the month in which
21 the fees and fines listed in subdivision (a) are collected, the
22 amounts remaining after the distributions in subdivision (c) shall
23 be transmitted to the State Treasury for deposit in the Trial Court
24 Trust Fund and other funds as required by law. This remittance
25 shall be accompanied by a remittance advice identifying the
26 collection month and the appropriate account in the Trial Court
27 Trust Fund or other fund to which it is to be deposited. Upon the
28 receipt of any delinquent payment required under this subdivision,
29 the Controller shall calculate a penalty as provided under
30 subdivision (i).

31 (e) From the ~~money~~ *moneys* transmitted to the State Treasury
32 under subdivision (d), the Controller shall make deposits as
33 follows:

34 (1) Into the State Court Facilities Construction Fund, the Judges'
35 Retirement Fund, and the Equal Access Fund, as described in
36 subdivision (c) of Section 68085.3 and subdivision (c) of Section
37 68085.4.

38 (2) Into the Health Statistics Special Fund, as described in
39 subdivision (b) of Section 70670 of this code and Section 103730
40 of the Health and Safety Code.

1 (3) Into the Family Law Trust Fund, as described in Section
2 70674.

3 (4) Into the Immediate and Critical Needs Account of the State
4 Court Facilities Construction Fund, established in Section 70371.5,
5 as described in Sections 68085.3, 68085.4, and 70657.5, and
6 subdivision (e) of Section 70617.

7 (5) The remainder of the ~~money~~ *moneys* shall be deposited into
8 the Trial Court Trust Fund.

9 (f) The amounts collected by each superior court under Section
10 116.232, subdivision (g) of Section 411.20, and subdivision (g) of
11 Section 411.21 of the Code of Civil Procedure, Sections 304, 3112,
12 3153, 7851.5, and 9002 of the Family Code, subdivision (d) of
13 Section 6103.5, subdivision (d) of Section 68511.3, and Sections
14 68926.1, 70627, 70631, 70640, 70661, 70678, and 71386 of this
15 code, and Sections 1513.1, 1835, 1851.5, and 2343 of the Probate
16 Code shall be added to the monthly apportionment for that court
17 under subdivision (a) of Section 68085.

18 (g) If any of the fees provided in subdivision (a) are partially
19 waived by court order or otherwise reduced, and the fee is to be
20 divided between the Trial Court Trust Fund and any other fund or
21 account, the amount of the reduction shall be deducted from the
22 amount to be distributed to each fund in the same proportion as
23 the amount of each distribution bears to the total amount of the
24 fee. If the fee is paid by installment payments, the amount
25 distributed to each fund or account from each installment shall
26 bear the same proportion to the installment payment as the full
27 distribution to that fund or account does to the full fee. If a court
28 collects a fee that was incurred before January 1, 2006, under a
29 provision that was the predecessor to one of the paragraphs
30 contained in subdivision (a), the fee may be deposited as if it were
31 collected under the paragraph of subdivision (a) that corresponds
32 to the predecessor of that paragraph and distributed in prorated
33 amounts to each fund or account to which the fee in subdivision
34 (a) must be distributed.

35 (h) Except as provided in Sections 470.5 and 6322.1 of the
36 Business and Professions Code, and Sections 70622, 70624, and
37 70625 of this code, no agency may take action to change the
38 amounts allocated to any of the funds described in subdivision (c),
39 (d), or (e).

(i) The amount of the penalty on any delinquent payment under subdivision (c) or (d) shall be calculated by multiplying the amount of the delinquent payment at a daily rate equivalent to 1 ½ percent per month for the number of days the payment is delinquent. The penalty shall be paid from the Trial Court Trust Fund. Penalties on delinquent payments under subdivision (d) shall be calculated only on the amounts to be distributed to the Trial Court Trust Fund and the State Court Facilities Construction Fund, and each penalty shall be distributed proportionately to the funds to which the delinquent payment was to be distributed.

(j) If a delinquent payment under subdivision (c) or (d) results from a delinquency by a superior court under subdivision (b), the court shall reimburse the Trial Court Trust Fund for the amount of the penalty. Notwithstanding Section 77009, any penalty on a delinquent payment that a court is required to reimburse pursuant to this section shall be paid from the court operations fund for that court. The penalty shall be paid by the court to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated. If the penalty is not paid within the specified time, the Administrative Office of the Courts may reduce the amount of a subsequent monthly allocation to the court by the amount of the penalty on the delinquent payment.

(k) If a delinquent payment under subdivision (c) or (d) results from a delinquency by a county in transmitting fees and fines listed in subdivision (a) to the bank account established for this purpose, as described in subdivision (b), the county shall reimburse the Trial Court Trust Fund for the amount of the penalty. The penalty shall be paid by the county to the Trial Court Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(l) This section shall become operative on July 1, 2017.

SEC. 3. Section 68086 of the Government Code is amended to read:

68086. (a) The following provisions apply in superior court:

(1) In addition to any other fee required in civil actions or cases:

(A) For each proceeding lasting less than an hour, a fee of thirty dollars (\$30) shall be charged for the reasonable cost of the services of an official court reporter pursuant to Section 269 of the Code of Civil Procedure.

1 (B) For each proceeding lasting more than one hour, a fee equal
2 to the actual cost of providing that service shall be charged per
3 one-half day of services to the parties, on a pro rata basis, for the
4 services of an official court reporter on the first and each
5 succeeding judicial day those services are provided pursuant to
6 Section 269 of the Code of Civil Procedure.

7 (2) All parties shall deposit their pro rata shares of these fees
8 with the clerk of the court as specified by the court, but not later
9 than the conclusion of each day's court session.

10 (3) For purposes of this section, "one-half day" means any
11 period of judicial time, in excess of one hour, but not more than
12 four hours, during either the morning or afternoon court session.

13 (4) The costs for the services of the official court reporter shall
14 be recoverable as taxable costs by the prevailing party as otherwise
15 provided by law.

16 (5) The Judicial Council shall adopt rules to ensure all of the
17 following:

18 (A) That parties are given adequate and timely notice of the
19 availability of an official court reporter.

20 (B) That if an official court reporter is not available, a party
21 may arrange for the presence of a certified shorthand reporter to
22 serve as an official pro tempore reporter, the costs therefor
23 recoverable as provided in paragraph (4).

24 (C) That if the services of an official pro tempore reporter are
25 utilized pursuant to subparagraph (B), no other charge shall be
26 made to the parties.

27 (b) The fees collected pursuant to this section shall be used only
28 to pay the cost for services of an official court reporter in civil
29 proceedings and shall be retained by the court in which the fee
30 was collected.

31 (c) It is the intent of the Legislature to continue an incentive to
32 courts to use the services of an official court reporter in civil
33 proceedings.

34 (d) The Judicial Council shall report on or before February 1
35 of each year to the Joint Legislative Budget Committee on the fees
36 collected by courts pursuant to this section and Section 68086.1
37 and on the total amount spent for services of official court reporters
38 in civil proceedings statewide in the prior fiscal year.

39 SEC. 4. Section 68086.1 of the Government Code is amended
40 to read:

1 68086.1. (a) For each three-hundred-fifty-five-dollar (\$355)
2 fee collected under Section 70611, 70612, 70650, or 70670, thirty
3 dollars (\$30) shall be retained by the court in which the fee was
4 collected and shall be used ~~for~~ *to provide the* services of an official
5 court reporter in civil proceedings.

6 (b) For each three-hundred-thirty-dollar (\$330) fee collected
7 under subdivision (a) of Section 70613 or subdivision (a) of Section
8 70614, thirty dollars (\$30) shall be retained by the court in which
9 the fee was collected and shall be used ~~for~~ *to provide the* services
10 of an official court reporter in civil proceedings.

11 ~~(c) It is the intent of the Legislature, in approving the~~
12 ~~thirty-dollar (\$30) distribution out of each filing fee listed in~~
13 ~~subdivisions (a) and (b), to continue an incentive to courts to use~~
14 ~~the services of an official court reporter in civil proceedings.~~

15 *(c) In trial courts where official court reporting services in civil*
16 *proceedings are not provided, all fees to be retained pursuant to*
17 *subdivisions (a) and (b) shall instead revert to the Trial Court*
18 *Trust Fund for redistribution to trial courts providing official court*
19 *reporting services in civil proceedings, on a pro rata basis, and*
20 *shall be used to provide the services of an official court reporter*
21 *in civil proceedings.*

22 SEC. 5. Section 69953.5 of the Government Code is amended
23 to read:

24 69953.5. Notwithstanding any other provision of law, whenever
25 a daily transcript is ordered in a civil case requiring the services
26 of more than one phonographic reporter, the party requesting the
27 daily transcript, in addition to any other required fee, shall pay a
28 fee per day, or portion thereof, equal to the per diem rate for pro
29 tempore reporters established by statute, local rule, or ordinance
30 for the services of each additional reporter for the first day and
31 each subsequent day the additional reporters are required. This fee
32 shall be retained by the court in which it was collected to offset
33 the cost of the additional reporter.